

REMARKS

Claims 1-30 are pending. The Office Action dated November 24, 2006 in this Application has been carefully considered. The above amendments and the following remarks are presented in a sincere attempt to place this Application in condition for allowance. Claims 1-7, 9-10, 12-16, 18-19, 22-25, and 27-30, have been amended in this Response. Claims 8, 17, 21, and 26, have been cancelled in this Response and therefore their rejections are now considered moot. Claims 31-33 have been added in this Response. Reconsideration and allowance are respectfully requested in light of the above amendments and following remarks for those Claims not in condition for allowance.

The Specification has been amended to correct a typographical error in the present Application. Applicant submits that this amendment to the Specification does not disclose new subject matter, and that this amendment is supported by the original Application as filed.

Claims 29 and 30 have been amended to correct a typographical error in the present Application. Applicant contends that these Claims should be afforded their full sets of equivalencies under the judicially created Doctrine of Equivalents as the Claims were not narrowed or substantively altered by the respective amendments.

Claims 1-30 stand rejected under provisional non-statutory obviousness-type double patenting by U.S. Patent Application Serial Nos. 11/158,377, 11/158,618, 11/158,648, 11/158,696, 11/158,865, 11/158,867, 11/158,958, 11/158,993, and 11/159,079. Insofar as they may be applied against the Claims, these rejections are traversed. Applicant has filed a terminal disclaimer in conjunction with this Response. Therefore, Applicant submits that the provisional rejections of Claims 1-30 are traversed. Accordingly, Applicant respectfully requests that the rejections under the provisional non-statutory obviousness-type double patenting be withdrawn.

Claims 3, 10, 12, 19, 21, and 28-30 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. These Claims were found to be vague and indefinite because it was unclear to the Examiner as to what would constitute a “long shelf-life.” (Office Action, pg. 2) Claims 10, 19, and 28 were amended to remove the term “long shelf-life.” Therefore, the rejection against Claims 10, 19, and 28, is now moot.

In regard to the remaining Claims 3, 12, 21, and 27-30, as stated on page 5 of the Specification, “a long shelf-life can be defined as a material that can be stored for an indefinite period of time when stored below the standard temperature of 86° Fahrenheit (F).” Applicant submits that this level of clarification satisfies the requirements of 35 U.S.C. §112, second paragraph, by providing a description of the ambient conditions and the expected shelf-life under those conditions. Therefore, Applicant respectfully requests that the Examiner withdraw the rejections concerning this Claim terminology for the remaining Claims 3, 12, 21, and 27-30.

Claims 1-7, 10-16, 19-25, and 28-30, stand rejected under 35 U.S.C. §102(b) as being clearly anticipated by U.S. Patent No 6,267,114 B1 to Ueno (“Ueno”). Insofar as this reference may be applied against these Claims, this rejection is overcome.

Independent Claim 1 as now amended more particularly recites one of the distinguishing characteristics of the present invention, namely, “a humidifier at least configured to be in communication with the vessel for the transfer of fluid directly or indirectly between the humidifier and vessel.” (Emphasis added.) Support for this Amendment can be found, among other places, FIG. 1, Page 6, line 25, and Claim 8 of the original Application.

Ueno does not suggest, teach, or disclose a humidifier in communication with the vessel. According to the MPEP §2131, pg. 2100-67, “A claim is anticipated only if each and every element

as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Since Ueno does not suggest, teach, or disclose the humidifier of the amended independent Claim 1, Applicant respectfully submits that this rejection is overcome. As a result, Applicant respectfully requests that the rejection of amended independent Claim 1 under 35 U.S.C. § 102(b) be withdrawn and that Claim 1 be allowed.

Applicant contends that the rejections of amended independent Claims 10, 19, and 28, are overcome for at least some of the reasons that the rejection of independent Claim 1 as amended is overcome. These reasons include Davis not disclosing, teaching, or suggesting “a humidifier.” (Emphasis added.) Applicant therefore respectfully submits that amended independent Claims 10, 19, and 28, are clearly and precisely distinguishable over the cited references in any combination.

Claims 8, 9, 17, 18, 26, and 27, stand rejected under 35 U.S.C. §103(a) by Ueno in view of U.S. Patent No. 6,123,069 to Davis (“Davis”). Claims 8, 17, and 26 are canceled with this response and therefore the rejection against these Claims is moot. Insofar as these references may be applied against the remaining Claims, these rejections are overcome.

Rejected amended Claim 9 depends upon and further limits amended independent Claim 1. Amended Claim 9 now recites one of the distinguishing characteristics of the present invention, namely, “a humidifier at least configured to be in communication with the vessel for the transfer of fluid directly or indirectly between the humidifier and vessel.” (Emphasis added.) Support for this Amendment can be found, among other places, FIG. 1, Page 6, line 25, and Claim 8 of the original Application.

Regarding Claim 9, Ueno was cited as assertedly fully disclosing the following: (1) a device for personal breathing use. Davis was cited as assertedly fully disclosing the following: (1) it is known and expected to humidify generated oxygen to be delivered for personal use in order to minimize the detrimental effects of breathing dry air on the nasal passages and lungs. The Examiner further stated that it would have been obvious to combine teachings of Ueno and Davis in order to include a humidifying means with the device of Ueno for personal breathing use because as taught in Davis it would minimize the detrimental effects of breathing dry air on the nasal passages and lungs.

Davis does not suggest, teach, or disclose the use of a humidifier to humidify generated oxygen. Specifically, Davis teaches the use of silica gel 75, as a water vapor absorber (Col. 6, lines 7 and 8). Additionally, Davis teaches that “During system operation, the activated charcoal 73 deodorizes and the silica gel 75 dries the 80 liters of generated oxygen.” (Col 6, lines 37-39, emphasis added). Therefore, Davis teaches against humidifying the generated oxygen, contrary to amended Claim 9. Additionally, after careful review, Applicant could not locate any teachings in Davis in which “it is known and expected to humidify generated oxygen to be delivered for personal use in order to minimize the detrimental effects of breathing dry air on the nasal passages and lungs.” (Office Action, pg. 3) Applicant further respectfully requests that the Examiner distinctly point out and identify the teachings referred to in Davis.

In view of the foregoing, it is apparent that the cited references do not disclose, teach or suggest the unique combination recited in amended Claim 9. Applicant therefore submits that amended Claim 9 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over these references and the remaining references of record.

Accordingly, Applicant respectfully requests that the rejection of amended Claim 9 under 35 U.S.C. § 103(a) be withdrawn and that Claim 9 be allowed.

Applicant contends that the rejections of amended Claims 18 and 27 are overcome for at least some of the reasons that the rejection of Claim 9 as amended is overcome. These reasons include Davis not disclosing, teaching, or suggesting “a humidifier.[”] (Emphasis added.) Applicant therefore respectfully submits that amended Claims 18 and 27 are clearly and precisely distinguishable over the cited references in any combination.

Remaining Claims 2-7, 11-16, 20, 22-25, and 29-30, and added Claims 31-33 respectively depend on and further limit Claims 1, 10, 19, and 28. Hence, for at least the aforementioned reasons, these Claims would be deemed to be in condition for allowance. Applicant respectfully requests that the rejections of the remaining dependent Claims 2-7, 12-16, 20, 22-25, and 29-30, also be withdrawn.

Applicant has now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-7, 9-16, 18-20, 22-25, and 27-33.

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Applicant does not believe that any fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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